



## ROXANNE ISMAIL SC 葉靜思資深大律師

Call: 2001 (HK); 1993 (England & Wales)  
Inner Bar: 2013

Tenancy: 3-4 South Square, Gray's Inn (1994); Temple Chambers (2002) Accredited as a mediator by ADR Chambers (UK) Ltd in 2007

### PROFILE

Roxanne started practice in London specializing in insolvency work at 3-4 South Square, Gray's Inn. Since moving to Hong Kong in 2001, Roxanne has practiced mainly in the areas of insolvency and company, banking and complex commercial litigation/arbitration, professional negligence, and judicial review.

### CONTACT

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### SECRETARY

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### PRACTICE AREAS

- Arbitration
- Banking / Finance
- Company
- Civil Fraud / Asset Recovery
- Commercial
- Disciplinary
- Employment
- Insolvency
- Public Law / Judicial Review
- Professional Liability
- Securities & Regulation

### APPOINTMENTS AND PUBLIC OFFICE

- Deputy High Court Judge of the Court of First Instance of the Hong Kong SAR (2015, 2016, 2017, 2018, 2019)
- Member of Standing Committee on Company Law Reform (2011 - 2017)
- Member of Disciplinary Panel A of the Hong Kong Institute of Certified Public Accountants (2011 - 2020)
- Member of Telecommunications (Competition Provisions) Appeal Board (2014 - )
- Member of the Deposit Protection Appeals Tribunal (2014 - 2017)
- Member of Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Review Tribunal (2015 - 2018)

- Director of the Hong Kong Advocacy Training Council (2013 - 2017)

## EDUCATION

1992 LLB (London), School of Oriental and African Studies

## PUBLICATIONS AND ARTICLES

- Contributor to Tolley's "Insolvency Law"
- Contributor to Hong Kong Court Forms in Civil Proceedings – Companies Winding Up
- Former contributor to Totty and Moss "Insolvency"
- "Corporate Insolvency- Recent Developments", The Jersey Law Review, Oct 2001 (with Robin Dicker QC)

## SCHOLARSHIP AND PRIZES

1993 Thomas More Bursary (Lincoln's Inn)

## SELECTED CASES

### COMPANY

- *Re Shun Tak Holdings* [2009] 6 HKC 364. Strike-out of a s168A unfair prejudice petition on the grounds that a derivative action would be more appropriate. Led by Paul Shieh SC.
- *Kwok Ping Sheung & ors v Sun Hung Kai Properties* [2008] 3 HKC 465. The Court will not generally interfere with the internal administration of a company. Application for injunction to restrain removal of chairman of board dismissed. Led by Adrian Huggins SC.
- *Re China Development Corp Ltd* [2004] 1 HKLRD A3; *Re Goldbond Group Holdings* [2003] 3 HKLRD 15. Reduction in capital cases.

### CIVIL FRAUD / ASSET RECOVERY

- In the commercial context, Roxanne has extensive experience of interlocutory injunction applications, most recently in the *Accent Delight v Bouvier* litigation.
- *A Co v B Co* [2002] 2 HKC 497. Norwich Pharmacal relief and ancillary "gagging orders".

### COMMERCIAL

- Roxanne has been instructed in a wide variety of commercial claims (in court and in arbitration) including commercial fraud, breach of contract and banking disputes. Notable cases include:
- *Corporacion Nacional del Cobre de Chile v Sogemin Metals Ltd & ors* (1997) 1 WLR 1396. Contributory negligence is not available as a defence to allegations of bribery.
- *Routestone v Minorities Finance Ltd and another; Same v Bird and others*, [1997] 21 EG 148, [1997] BCC 180. Successful defence at trial of negligence claims made in respect of sales of property during receivership. Permissible scope of expert evidence. Led by Michael Crystal QC and Richard Adkins QC
- *Morris & ors v Banque Arabe et Internationale d'Investissement SA*, Times LR 23 Dec 1999. The impact of French legislation (which made disclosure of documents located in France a criminal offence) upon a discovery order within English (fraudulent trading) proceedings. Led by Richard Adkins QC

### EMPLOYMENT

- *Total Lubricants Hong Kong Ltd v de Chanterac & ors* [2013] 5 HKC 564; [2013] 2 HKLRD 838. Consideration by CA of *res judicata*/ estoppel in the context of amendments to pleadings in an employment/conspiracy case. Led by John Bleach S.C.

- *IBM Hong Kong/ China v Knight*. Restrictive covenant. Led by John Bleach SC.

#### INSOLVENCY

- *Yung Chi Keung v Protection of Wages on Insolvency Fund Board* [2015] 1 HKC 383
- *Re The Grande Holdings Ltd (No.2) and (No.3)* [2015] 2 HKC 39, 48. Appeals in respect of admission of proof of debt.
- *China Medical Technologies Inc* [2014] 2 HKLRD 997. Winding-up of an overseas (unregistered) company.
- *Re ECM Real Estate AG* [2014] 1 HKC 78. Jurisdictional issues as to the ability to convert a compulsory winding-up of a foreign company into a CVL in order to avoid the payment of *ad valorem* fees.
- *Kennedy v Cheng* [2009] 6 HKC 454. CFA. Whether the disclosure of private examination transcripts by a liquidator to the police required the court's leave and/or was a contempt. Led by Robin Dicker QC.
- *Re Hau Po Man Stanley* [2008] 1 HKC 256. Orders for discovery and examination. Suspension of automatic discharge from bankruptcy. CA.
- *Re B&B Construction Co Ltd* [2005] 2 HKLRD 478; [2005] 2 HKC 346. Orders for private examination of foreigners under s.221 of the Companies Ordinance.
- *Re Jinro (Hong Kong) International Ltd (No. 3)* [2004] 1 HKC 166. Appointment of provisional liquidators.
- *Re Asher & Co (HK) Ltd* [2004] 2 HKC 20. Availability of privilege against self-incrimination in private examination under s.221 of the Companies Ordinance.
- *Re Jinro (Hong Kong) International Ltd (No. 2)* [2003] 4 HKC 637. Locus to present winding-up petition of purchaser of floating rate note through Euroclear system. Led by John Bleach SC.
- *Cadwell v Jackson* [2001] BPIR 966. Ability to prove in bankruptcy for a debt arising from foreign matrimonial proceedings.

#### INSURANCE

- Roxanne has advised and acted in insurance litigation, and has further acted for insurers in respect of the transfer of long term insurance business upon restructurings.
- *Ming-An Insurance v Ritz-Carlton* [2003] 1 HKC 225. Vicarious liability of employer. CFA. Led by John Bleach SC.

#### PUBLIC LAW / JUDICIAL REVIEW

- *Yung Chi Keung v Protection of Wages on Insolvency Fund Board* [2015] 1 HKC 383. Judicial review concerning *ex gratia* payments from the Protection of Wages on Insolvency Fund.
- *Dr Li Wang Pong Franklin v Medical Council of Hong Kong* [2009] 1 HKC 352. Judicial review concerning the powers of the Preliminary Investigation Committee. Led by John Bleach SC.
- *Cathay Pacific Airways v Administrative Appeals Board & anor* [2008] 5 HKC 229. Judicial review in respect of an incorrect construction by the Privacy Commissioner and AAB of Data Protection Principle 1(2) of the Personal Data (Privacy) Ordinance. Led by John Bleach SC.
- *Shiu Wing Steel v Director of Environmental Protection* [2006] 4 HKC 111. Judicial review concerning the Environmental Impact Assessment Ordinance. CFA. Led by Nigel Pleming QC.

#### PROFESSIONAL LIABILITY

- Roxanne has been involved in several professional negligence matters including claims against auditors, solicitors and insolvency practitioners. Most recently, she acted for the auditors in professional negligence proceedings relating to Orient Power Holdings Ltd.

#### SECURITIES & REGULATION

- In the regulatory context, Roxanne has acted as counsel in telecoms, market misconduct, and company listing matters.
- *PCCW-HKT Telephone Ltd v Telecommunications Authority* [2012] 2 HKLRD 396. Case stated application to CA in respect of meaning of "person aggrieved" for purposes of appeal from, and jurisdiction of the chairman of, the Telecommunications (Competition Provisions) Appeal Board. Acted 2010-2012 for the Telecommunication Authority in respect of SmarTone's appeal to the Appeal Board from the TA's Decision that PCCW's FMIC Increase was not anti-competitive.
- Market Misconduct Tribunal inquiry in respect of dealings in China and Overseas Land & Investment Ltd (2009). Acting for specified person.

#### OTHERS

- *Dicker QC* [2013] 2 HKLRD 245. Ad hoc admission of overseas counsel.

- *Common Luck Investment v Director of Legal Aid* [2002] 3 HKLRD 81. Liability of Director of Legal Aid to pay costs awarded to unaided person against legally aided person. CFA. Led by John Bleach SC.
- Acted on several occasions as court-appointed examiner for taking evidence for use in foreign proceedings.
- Acted as foreign law expert in BVI proceedings (2002); in English Commercial Court proceedings (2015)